

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against: )  
 )  
VILASINI MALYALA GANESH, M.D. )  
 )  
Physician's and Surgeon's )  
Certificate No. A 80087 )  
 )  
Respondent. )  
\_\_\_\_\_ )

Case No. 800-2016-023033

**DENIAL BY OPERATION OF LAW  
PETITION FOR RECONSIDERATION**

No action having been taken on the petition for reconsideration, filed by Michael D. McClelland, Esq. on behalf of respondent, Vilasini Malyala Ganesh, M.D., and the time for action having expired at 5:00 p.m. on December 21, 2018, the petition is deemed denied by operation of law.

**BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Accusation Against: )**

**VILASINI MALYALA GANESH, M.D. )**

**Physician's and Surgeon's )  
Certificate No. A 80087 )**

**Respondent )**

**Case No. 800-2016-023033**

**OAH No. 2018060615**

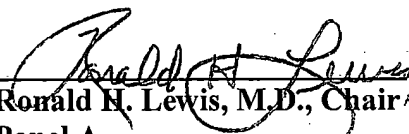
**DECISION AND ORDER**

**The attached Proposed Decision is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.**

**This Decision shall become effective at 5:00 p.m. on December 21, 2018.**

**IT IS SO ORDERED November 21, 2018.**

**MEDICAL BOARD OF CALIFORNIA**

By:   
Ronald N. Lewis, M.D., Chair  
Panel A

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

VILASINI MALYALA GANESH, M.D.,

Physician's and Surgeon's Certificate  
No. A 80087

Respondent.

Case No. 800-2016-023033

OAH No. 2018060615

**PROPOSED DECISION**

Administrative Law Judge Diane Schneider, State of California, Office of Administrative Hearings, heard this matter on September 24, 2018, in Oakland, California.

Deputy Attorney General Keith C. Shaw represented complainant Kimberly Kirchmeyer, Executive Director of the Medical Board of California, Department of Consumer Affairs.

Michael D. McClelland, Attorney at Law, McClelland Advocacy, Ltd., represented respondent Vilasini Malyala Ganesh, M.D., who was present.

The record closed and the matter was submitted on September 24, 2018.

**FACTUAL FINDINGS**

1. Complainant Kimberly Kirchmeyer issued the Accusation in her official capacity as Executive Director of the Medical Board of California (Board), Department of Consumer Affairs.
2. On August 7, 2002, the Board issued Physician's and Surgeon's Certificate (Certificate) No. A 80087 to respondent Vilasini Malyala Ganesh, M.D. Respondent's Certificate was in full force and effect at the times of the acts set forth below and will expire on September 30, 2019, unless renewed.

3. The Accusation alleges that cause for discipline exists against respondent's Certificate by reason of her convictions, pursuant to a federal jury's verdict, for health care fraud and making false statements related to health care matters. Respondent filed a notice of defense and this hearing followed.

4. On December 14, 2017, respondent was found guilty by a jury of committing five felony counts of health care fraud (18 U.S.C. § 1347<sup>1</sup>), and five felony counts of making false statements relating to health care matters (18 U.S.C. § 1035<sup>2</sup>).

5. The jury found that respondent committed health care fraud in violation of Title 18 United States Code section 1347 based upon: a claim for reimbursement submitted to Anthem Blue Cross for care claimed to have been provided to beneficiary Surekha Soni on or about June 28, 2012, as charged in count two of the indictment; a claim for reimbursement submitted to Blue Shield for care claimed to have been provided to beneficiary Michael Kelley on or about March 5, 2012, as charged in count three of the indictment; a claim for reimbursement submitted to Cigna for care claimed to have been provided to beneficiary Mastaneh Habibi on or about December 30, 2012, as charged in count four of the indictment; a claim for reimbursement submitted to United Healthcare for care claimed to have been provided to beneficiary Ann Dwan on or about February 17, 2014, as charged in count five of the indictment; and, a claim for reimbursement submitted to Aetna for care claimed to have been provided to beneficiary Sarini Kakkar on or about September 21, 2012, as charged in count six of the indictment.

6. The jury found that respondent made false statements relating to health care matters in violation of Title 18 United States Code section 1035, based upon: the submission to Anthem Blue Cross of claimed care regarding beneficiary Surekha Soni, on or about December 23, 2013, as charged in count 11 of the indictment; the submission to Blue Shield of claimed care regarding beneficiary Michael Kelley, on or about August 10, 2013, as charged in count 12 of the indictment; the submission to Cigna of claimed care regarding beneficiary Mastaneh Habibi, on or about March 29, 2013, as charged in count 13 of the indictment; the submission to United Healthcare of claimed care regarding beneficiary Ann Dwan, on or about May 12, 2014, as charged in count 14 of the indictment; and the

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<sup>1</sup> Title 17 United States Code section 1347 provides that an individual who knowingly and willingly executes a scheme to defraud a health care benefit program, or to obtain, by means of false or fraudulent pretenses, money owned by, or under the control of, any health care benefit program, in connection with the delivery of or payment for health care benefits or services, shall be fined or imprisoned not more than 10 years, or both.

<sup>2</sup> Title 17 United States Code section 1035 prohibits an individual from knowingly and willfully executing a scheme to defraud any health benefit program, or to obtain, by false pretenses or representations, money owned by or under the control of any health care benefit programs, in connection with the delivery of or payment for health care benefits or services.

submission to Aetna of claimed care regarding beneficiary Sarini Kakkar, on or about December 10, 2012, as charged in count 15 of the indictment.

7. On August 28, 2018, by reason of her convictions, respondent was sentenced to 63 months in prison<sup>3</sup> and was ordered to pay \$344,916.20 in restitution.

*Respondent's evidence*

8. Respondent did not present any evidence at hearing.

LEGAL CONCLUSIONS

1. The standard of proof applied in making the factual findings set forth above is clear and convincing evidence to a reasonable certainty. (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App.3d 853, 856.)

*First cause for discipline (criminal conviction and dishonest/corrupt acts/false documents)*

2. Business and Professions<sup>4</sup> Code section 2234 authorizes the Board to take disciplinary action against a licensee who commits unprofessional conduct. Section 2234, subdivision (e), provides that a licensee's commission of a dishonest act that is substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct. Section 2261 provides that a licensee commits unprofessional conduct when he or she knowingly signs any document directly or indirectly related to the practice of medicine, which falsely represents the existence or nonexistence of a state of facts. Section 2236, subdivision (a), provides that the conviction of any offense substantially related<sup>5</sup> to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct; and, pursuant to subdivision (d), a verdict of guilty is "deemed to be a conviction." Based upon the matters set forth in Factual Findings 4 through 6, respondent's Certificate is subject to discipline for unprofessional conduct pursuant to sections 2234, 2261 and 2236.

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<sup>3</sup> Respondent was ordered to self-surrender to her designated prison facility on November 1, 2018.

<sup>4</sup> All further statutory references are to the Business and Professions Code unless otherwise indicated.

<sup>5</sup> A substantially related crime is one that evidences, to a substantial degree, a present or potential unfitness on the part of the licensee to perform licensed functions in a manner consistent with public safety. (Cal. Code Regs., tit. 16, § 1360.)

*Disciplinary determination*

3. As cause for discipline has been established, the appropriate level of discipline must be determined. In exercising its licensing functions, protection of the public is the highest priority of the Board. The Board's Manual of Model Disciplinary Orders and Disciplinary Guidelines (Guidelines) (12th ed., 2016), recommends, at a minimum, stayed revocation and five years' probation, subject to appropriate terms and conditions, for respondent's general unprofessional conduct under sections 2234 and 2261. The Guidelines recommend, at a minimum, stayed revocation, one year suspension, and at least seven years' probation for respondent's violation of section 2234, subdivision (e). The maximum discipline for each of these violations is license revocation. It is respondent's burden to demonstrate that she is sufficiently rehabilitated from her misconduct to justify continued licensure.

In the instant case respondent was convicted of engaging in a pattern of billing fraud in connection with her medical practice, between 2012 and 2014. Respondent's was sentenced to 63 months in prison for her offenses. Multiple insurance companies were harmed by her criminal conduct, as reflected by the restitution order in excess of \$344,000. Respondent did not present any rehabilitation evidence at hearing. Against this background, protection of the public requires revocation of her Certificate.

ORDER

Physician's and Surgeon's Certificate No. A 80087, issued to respondent Vilasini Malyala Ganesh, is revoked.

DATED: October 22, 2018

DocuSigned by:  
*Diane Schneider*  
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DIANE SCHNEIDER  
Administrative Law Judge  
Office of Administrative Hearings

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7

FILED  
STATE OF CALIFORNIA  
MEDICAL BOARD OF CALIFORNIA  
SACRAMENTO April 17 2018  
BY: Gregory West ANALYST

8 BEFORE THE  
9 MEDICAL BOARD OF CALIFORNIA  
10 DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 800-2016-023033

12 Vilasini Malyala Ganesh, M.D.

ACCUSATION

13 555 Knowles Dr., Ste. 200  
14 Los Gatos, CA 95032-1549

15 Physician's and Surgeon's Certificate  
No. A 80087,

16 Respondent.  
17

18 Complainant alleges:

19 PARTIES

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official  
21 capacity as the Executive Director of the Medical Board of California (Board).

22 2. On or about August 7, 2002, the Medical Board issued Physician's and Surgeon's  
23 Certificate Number A 80087 to Vilasini Malyala Ganesh, M.D. (Respondent). The Physician's  
24 and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought  
25 herein and will expire on September 30, 2019, unless renewed.

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27 ///

28 ///

## JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

A. Section 2227 of the Code provides in part that the Board may revoke, suspend for a period not to exceed one year, or place on probation, the license of any licensee who has been found guilty under the Medical Practice Act, and may recover the costs of probation monitoring.

B. Section 2234 of the Code, states:

“The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

“(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

“(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.”

C. Section 2236 of the Code states:

“(a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

“(d) A plea or verdict of guilty or a conviction after a plea of nolo contendere is deemed to be a conviction within the meaning of this section and Section 2236.1. The record of conviction shall be conclusive evidence of the fact that the conviction occurred.”

D. Section 2261 of the Code, states:

“Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.”

E. California Code of Regulations, title 16, section 1360, states:



“For the purposes of denial, suspension or revocation of a license, certificate or permit pursuant to Division 1.5 (commencing with Section 475) of the code, a crime or act shall be considered to be substantially related to the qualifications, functions or duties of a person holding a license, certificate or permit under the Medical Practice Act if to a substantial degree it evidences present or potential unfitness of a person holding a license, certificate or permit to perform the functions authorized by the license, certificate or permit in a manner consistent with the public health, safety or welfare. Such crimes or acts shall include but not be limited to the following: Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate any provision of the Medical Practice Act.”

**CAUSE FOR DISCIPLINE**

**(Unprofessional Conduct: Criminal Conviction and Dishonest/Corrupt Acts/False Documents)**

4. Respondent is subject to disciplinary action under sections, 2234, 2234, subdivisions (a) and (e), 2236, 2261, and California Code of Regulations, title 16, section 1360 based on the following circumstances.

5. Respondent was found guilty on December 14, 2017, pursuant to a federal jury verdict in United States District Court, Northern District of California, of five (5) felony counts of Health Care Fraud (Title 18, U.S. Code section 24(b)), and five (5) felony counts of making False Statements Relating to Health Care Matters (Title 18, U.S. Code section 1035), based on the following investigation:

- a. Beginning on or around July 2009 and continuing through at least September 2014, Respondent, and another physician (GB), engaged in a scheme to defraud Health Care Benefits Programs (HCBP), including Blue Cross, Blue Shield, Aetna, Cigna, and UnitedHealthcare, by submitting false and fraudulent bills through their medical practice, Campbell Medical Group (CMG), and GB's physical therapy practice;
- b. As part of the scheme, Respondent submitted hundreds of claims to multiple HCBP that included 1) false Current Procedural Terminology (CPT) codes

1 which artificially inflated both the seriousness of the patient's condition, as  
2 well as time spent examining the patient; 2) false diagnoses which did not  
3 correspond to the patient's true health; 3) claims for dates when the patient had  
4 not actually been seen; 4) and claims on dates when Respondent represented  
5 the patient was seen by another health care provider no longer affiliated with  
6 Respondent's practice at CMG;

- 7 c. A significant amount of Respondent's fraudulent billing to HCBP included  
8 patient appointments that never occurred, including claims on weekend days  
9 when CMG was closed, on dates when the patient denied making the  
10 appointment, on dates that Respondent had billings which accounted for more  
11 than 24 hours in a single day of seeing patients, and on dates when either the  
12 patient or health care provider was not physically present in California;
- 13 d. Between 2010 and 2014, Respondent misused another physician's Tax  
14 Identification Number (TIN) by submitting numerous claims to HCBP under  
15 his TIN, even though he longer worked at CMG and had been unaffiliated with  
16 the practice since 2006. Respondent would then simultaneously submit the  
17 same claims to other HCBP using her own TIN;
- 18 e. On numerous occasions, Respondent submitted reimbursement requests to  
19 various HCBP, using both her own TIN and the unauthorized use of another  
20 physician's TIN, falsely claiming a total amount of patient care on a single day  
21 in excess of 113 hours;
- 22 f. Between July 20, 2012 and December 1, 2012, Respondent submitted over 73  
23 claims to Aetna for the care of a single patient, almost all claims indicating  
24 time-intensive office visits of at least 80 minutes for patients requiring the  
25 highest level of complex care, when in fact the patient was seen by Respondent  
26 no more than 9 times in a four-month period, and never more than 15 minutes  
27 at a time. After the patient contested the billed charges with Aetna, Aetna  
28 sought additional documentation from Respondent and disallowed

1 approximately \$4,000.00 of the billed charges. Respondent then sent the  
2 patient a bill for \$7,350.00 in unpaid and unreimbursed office visits;

3 g. Respondent did not maintain staff trained in medical billing, but instead  
4 directed staff and medical assistants to submit claims to HCBP based on her  
5 written instructions;

6 h. Respondent and GB opened a bank account at Bank of America in or around  
7 2011, each having signature authority over the account, which was used almost  
8 exclusively to deposit the reimbursement checks received from HCBP as a  
9 result of fraudulent billing;

10 i. When approached by representatives of HCBP requesting documentation or  
11 additional information to substantiate the claims submitted, Respondent further  
12 misrepresented or concealed the information, or instructed her office staff to do  
13 the same;

14 j. In total, Respondent submitted fraudulent claims to HCBP totaling at least \$3.5  
15 million;

16 k. On July 13, 2017, Respondent and GB were indicted by a federal grand jury  
17 for numerous felony charges, including conspiracy to commit health care  
18 fraud, conspiracy to commit money laundering, numerous counts of health care  
19 fraud, and making false statements relating to health care matters.

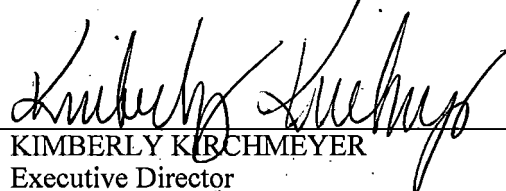
20 6. Respondent's December 14, 2017 criminal convictions of numerous counts of Health  
21 Care Fraud and numerous counts of making False Statements Relating to Health Care Matters are  
22 substantially related to the qualifications, functions and duties of a physician and surgeon in that  
23 her convictions are directly associated with her medical practice and demonstrate unprofessional  
24 conduct, dishonest and corrupt acts, conviction of substantially related crimes, and the knowing  
25 creation of false health care documents. As such, her convictions and conduct constitute cause  
26 for discipline pursuant to sections 2336/California Code of Regulations, title 16, section 1360  
27 (criminal conviction), 2234, 2234(a), 2234(e) (unprofessional conduct), and 2261 (false  
28 documents).

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 80087, issued to Vilasini Malyala Ganesh, M.D.;
2. Revoking, suspending or denying approval of Vilasini Malyala Ganesh, M.D.'s authority to supervise physician assistants and advanced practice nurses;
3. Ordering Vilasini Malyala Ganesh, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and
4. Taking such other and further action as deemed necessary and proper.

DATED: April 17, 2018



KIMBERLY KIRCHMEYER  
Executive Director  
Medical Board of California  
State of California  
*Complainant*

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